IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.2019/07

Vasudev Utwani **Versus** State & Anr.

DATE OF ORDER :: 22/11/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Hari Barath, for petitioner
Mr. Arun Sharma, Public Prosecutor for State
Mr. Anoop Agrawal, for respondent

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Instant petition has been filed by accused for quashing of criminal proceedings pending before learned trial Judge arising from FIR No.23/01 registered at Mahila Police Station, Ajmer for offence u/ss.498-A & 406 IPC.

Pending trial, joint application was filed on the premise that they have arrived to a compromise and the complainant does not want to prosecute the complaint any further. Learned trial Judge rejected the application vide order dated 6th February, 2007 on the premise that offences are not compoundable u/s.320 of the Code, as such no orders can be passed in this regard.

Petitioner approached this court u/s.482 Cr.P.C. for quashing of criminal proceedings.

This court vide order dated 21st November, 2007 directed the parties to remain present in

person and filed a joint compromise which has been filed by them and their statements have also been recorded under the directions of this court by Deputy Registrar [Judicial] and both are present in this court as well and complainant submits that she is not interested to prosecute the matter any further.

Counsel for petitioners placed reliance upon decision of Apex Court in **B.S.Joshi Vs. State of Haryana (AIR 2003 SC 1386**), wherein it has been observed that in cases where compromise has been arrived at among spouse, matrimonial litigation should not be encouraged and High Court should exercise inherent powers U/s 482, CrPC. Apex Court observed as infra:

> “The hyper technical view would be counter productive and would act against interests of women and against the object for which this provision was added. There is every likelihood that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier. That is not the object of Chapter XX-A of Indian Penal Code.”

Even in either circumstances, as well, Apex Court in **Ruchi Agawal Vs. Amit Agrawal (2005(3) SCC 299)**, observed ad infra:

> “Therefore, we of the opinion that the appellant having received the relief she wanted without contest on the basis

> of terms of the compromise, we cannot now accept the argument of the learned counsel for the appellant. In our opinion, the conduct of the appellant indicates that the criminal complaint from which this appeal arises was filed by the wife only to harass the respondents."

Matrimonial litigations arise out of family disputes and once parties thereto have arrived at amicable settlement and compromise, it is otherwise not in the interest of parties to prosecute the matter any further otherwise it may result in bitterness among their relations, which can never be legislative intent.

Consequently, misc. petition stands allowed and the criminal proceedings pending before learned trial Judge arising from FIR No.23/01 registered at Mahila Police Station, Ajmer for offence u/ss.498-A & 406 IPC, are hereby quashed and set aside. A copy of this order be sent to the trial Court.

[AJAY RASTOGI],J.